

A.C. 40301

SAUNDRA MAGANA,

Plaintiff,

v.

WELLS FARGO BANK, N.A., AS TRUSTEE FOR THE  
BENEFIT OF THE CERTIFICATE HOLDERS OF  
ASSET-BACKED PASS THROUGH CERTIFICATES  
SERIES 2004-MCW1, RECON TRUST COMPANY,  
N.A., NRT NEW ENGLAND, LLC, LAWRENCE  
GAGNON, BANK OF AMERICA, N.A., AND  
AUCTION.COM, INC.,

Defendants.

APPELLATE COURT

STATE OF CONNECTICUT

October 20, 2017

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR PERMISSION TO FILE  
LATE BRIEF**

Defendant Wells Fargo Bank, N.A., as Trustee for the Benefit of the Certificate Holders of Asset-Backed Pass Through Certificates Series 2004-MCW1 ("Wells Fargo Trustee"), hereby files this opposition to Plaintiff Sandra Magana's ("Plaintiff") motion for permission to file a late brief. In support of this opposition, Wells Fargo Trustee represents as follows:

**I. BRIEF HISTORY OF THE CASE**

Plaintiff filed her complaint against Wells Fargo Trustee, on July 26, 2013, seeking an injunction and/or a declaratory judgment related to Wells Fargo Trustee's 2007 foreclosure on real property located at 67 Regency Avenue, West Hartford, Connecticut. On March 20, 2017, Wells Fargo Trustee's motion for summary judgment was granted and judgment was entered against Plaintiff. Plaintiff filed her appeal on April 4, 2017. This Court, sua sponte, granted a forty five day extension for Plaintiff to file her appellant

brief on June 2, 2017. On July 28, 2017, an order was issued rescinding the June 2, 2017 order and entering a new forty five day extension for Plaintiff to file her brief. On September 8, 2017, Plaintiff moved for an further extension of twenty one days to file her brief. It appears that Plaintiff attempted to file her appellant brief on September 29, 2017 and again on October 13, 2017, but both filings were returned because they did not comply with filing requirements. Plaintiff has now filed a motion dated October 18, 2017 seeking permission to file a late brief.

## **II. SPECIFIC FACTS RELIED UPON**

Beginning on March 20, 2017, the date judgment was entered, all docketing statements were available to Plaintiff. Plaintiff states in her motion that she notified this Court on October 16, 2017 that the judgment file had been delivered by the Superior Court, but failed to address why she delayed until October 2017 to secure these documents. In fact, in Plaintiff's September 8, 2017 motion for an extension, Plaintiff stated that she has just received a final copy of the judgment file, and also that she still had to investigate numerous legal issues and had only just began writing her brief. At the time Plaintiff made the September 8, 2017 motion, nearly seven months had passed since judgment was entered in favor of Wells Fargo Trustee.

Based on the procedural history detailed in this motion, Plaintiff could have received the judgment file nearly eight months ago. Besides her vague claim that she made two attempts over this eight month span to secure the necessary docketing files for her appellant brief, Plaintiff has taken no other steps, nor has she alleged taking any other action, to insure she had all documents necessary to make her filing.

Further, Plaintiff's statement that she contacted counsel for Wells Fargo Trustee regarding this motion is utterly false. See EXHIBIT 1 – *Affidavit of Attorney Kevin Polansky*. In fact, throughout the pendency of this action, Plaintiff has never once provided copies of her filings to Wells Fargo Trustee despite repeated requests from counsel and her obligation to do so pursuant to Connecticut Practice Book § 10-12. Id. Likewise, her assertion that Wells Fargo Trustee never replied to her purported communication regarding this motion is equally false. It is in fact Plaintiff who has failed to respond to repeated requests from counsel that she provide a copy of her court filings. Id. Because of Plaintiff's failure or refusal to comply with her obligations under Connecticut Practice Book § 10-12, Wells Fargo Trustee's only information regarding filings in this action has come from the Court.

### **III. LEGAL GROUNDS**

Plaintiff has failed to diligently prepare her brief despite numerous extensions. Per Plaintiff's own statements in her motion filed September 8, 2017, it appears she had either not started or only just begun investigating and drafting her brief, despite the fact that judgment was entered against her nearly seven months prior. Plaintiff has also failed to provide any explanation as to why she was unable to secure necessary docketing statements, including the judgement file, over the eight month span from March 20, 2017 to October 18, 2017.

Further, Plaintiff has completely failed to apprise opposing counsel of any and all court filings. Her latest claim regarding an alleged attempt to contact Wells Fargo Trustee regarding this motion is patently false. Ultimately, it is Wells Fargo Trustee's position that

Plaintiff lacks any good faith arguments to challenge the judgment, and has now resorted to dilatory tactics as evidenced by her most recent motion.

It is clear from the face of the record that it is Plaintiff's own carelessness and lack of diligence in preparing her appeal that have delayed the filing of her appellant brief.

WHEREFORE, Plaintiff respectfully requests that Defendant's motion be denied.

Respectfully Submitted,  
DEFENDANT-APPELLEE,  
WELLS FARGO BANK, N.A.

BY /s/ 434359

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**CERTIFICATION**

I hereby certify that a copy of the above document was mailed or electronically delivered on this day, October 20, 2017, to the following:

Saundra Magana  
67 Regency Drive  
West Hartford, CT 06110  
*(Pro se Plaintiff)*

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*(Counsel for Defendants Recon Trust Company, N.A. and Bank of America, N.A.)*

/s/ 434359  
Kevin P. Polansky